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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,167	10/31/2003	Nicholas A. D'Agosto III	02158.0410.NPUS00	9089

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EXAMINER	
ESCALANTE, OVIDIO	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/697,167	D'AGOSTO ET AL.	
	Examiner	Art Unit	
	Ovidio Escalante	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment filed on January 30, 2006. **Claims 1-8** are now pending in the present application.

2. The Art Unit designation of this application has been changed to Art Unit 2614. Please make the change in any future response.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1,2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowater et al. US Patent 6,278,772 in view of Donaghue, Jr US Patent 6,256,381

Regarding claim 1, Bowater teaches a method for producing a telephone conference record, (abstract; col. 5, lines 21-37), the method comprising:

detecting when the user has called a recorder port, wherein the recorder port is one of a predetermined number of recorder ports, the predetermined number being at least one, (col. 7, lines 5-26);

opening a call record and recording the telephone call when the user is connected to the recorder port, (col. 7, lines 5-26);

detecting when the user's telephone line is disconnected, (col. 5, lines 21-37); and

stopping recording and closing the call record if the user's telephone line is disconnected, (col. 5, lines 21-37).

Bowater does not specifically teach the port being determined to provide a statistical grade of service.

In the same field of endeavor, Donaghue teaches of a telephone conferencing system which takes into account an acceptable grade of service rate for call centers, (col. 7, lines 51-65; col. 8, lines 28-49). Donaghue teaches that the number of calls are dependent on the number of conferences that are expected to be held simultaneously and based on the grade of service the rate in which calls can be sent to the call center can be determined.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bowater by determining the grade of service as taught by Donaghue so that delays to the recording port can be minimized.

Regarding claim 2, Bowater, as applied to claim 1, teaches capturing the calling line identification associated with the user if the user has called a recorder port, (col. 5, lines 21-37).

Regarding claim 5, Bowater, as applied to claim 1, teaches wherein the recorder port is associated with a PBX, (col. 5, lines 21-37; figs. 1 and 2).

Regarding claim 6, Bowater, as applied to claim 5, teaches wherein the user is associated with the PBX, (col. 5, lines 21-37; figs. 1 and 2).

Regarding claim 7, Bowater, as applied to claim 5, teaches claim 5, wherein the recorder port is one of a plurality of recorder ports associated with the PBX, and wherein the call to a recorder port may be connected with any of the plurality of recorder ports not recording at that time, (figs. 1 and 2; col. 5, lines 21-37; col. 3, lines 44-55).

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowater in view of Donaghue and further in view of in view of Bress et al. US Patent 5,570,420.

Regarding claims 3 and 4, Bowater, as applied to claim 1, does not specifically teach wherein the user calls another party prior or after calling the recorder port.

In the same field of endeavor, Bress teaches wherein the user calls another party prior to calling the recorder port and wherein the user calls another party after calling the recorder port, (col. 4, line 53-col. 5, line 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Bowater by adding a caller before or after

connecting to the voice recorder as taught by Bress so that the user can decide to add in a third party (e.g. a supervisor) who at that point can decide that the call should be recorded or so that the user can add a third party during the call recording process if something important comes up that needs supervisory or expert help.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowater in view of Donaghue and further in view of Edwards US Patent 6,744,877.

Regarding claim 8, Bowater, as applied to claim 7, does not specifically teach wherein the user is associated with a hunt group.

In the same field of endeavor, Edwards teaches wherein a user is associated with a hunt group that is configured to only a distinct subset of the plurality of recorder ports, (col. 2, lines 17-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bowater by using hunt groups as taught by Edwards so that the system resources can be balanced amount all recorders. This will prevent one recorder from handling most of the recordings.

Response to Arguments

9. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OVIDIO ESCALANTE
PATENT EXAMINER

Ovidio Escalante

Ovidio Escalante
Primary Patent Examiner
Group 2614
April 7, 2006

O.E./oe